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THE  
BILLS OF EXCHANGE ACT, 1882.

(45 & 46 VICT., C. 61.)

An Act

TO CODIFY THE LAW RELATING TO BILLS OF EXCHANGE,  
CHEQUES, AND PROMISSORY NOTES.

With Explanatory Notes and Index

BY

M. D. CHALMERS, ESQ., M.A.,

OF THE INNER TEMPLE, BARRISTER-AT-LAW,

*Draftsman of the Bill.*

*(Editor of The Indian Negotiable Instruments Act, Wilson's Judicature Acts, &c.)*

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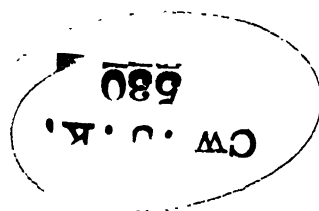
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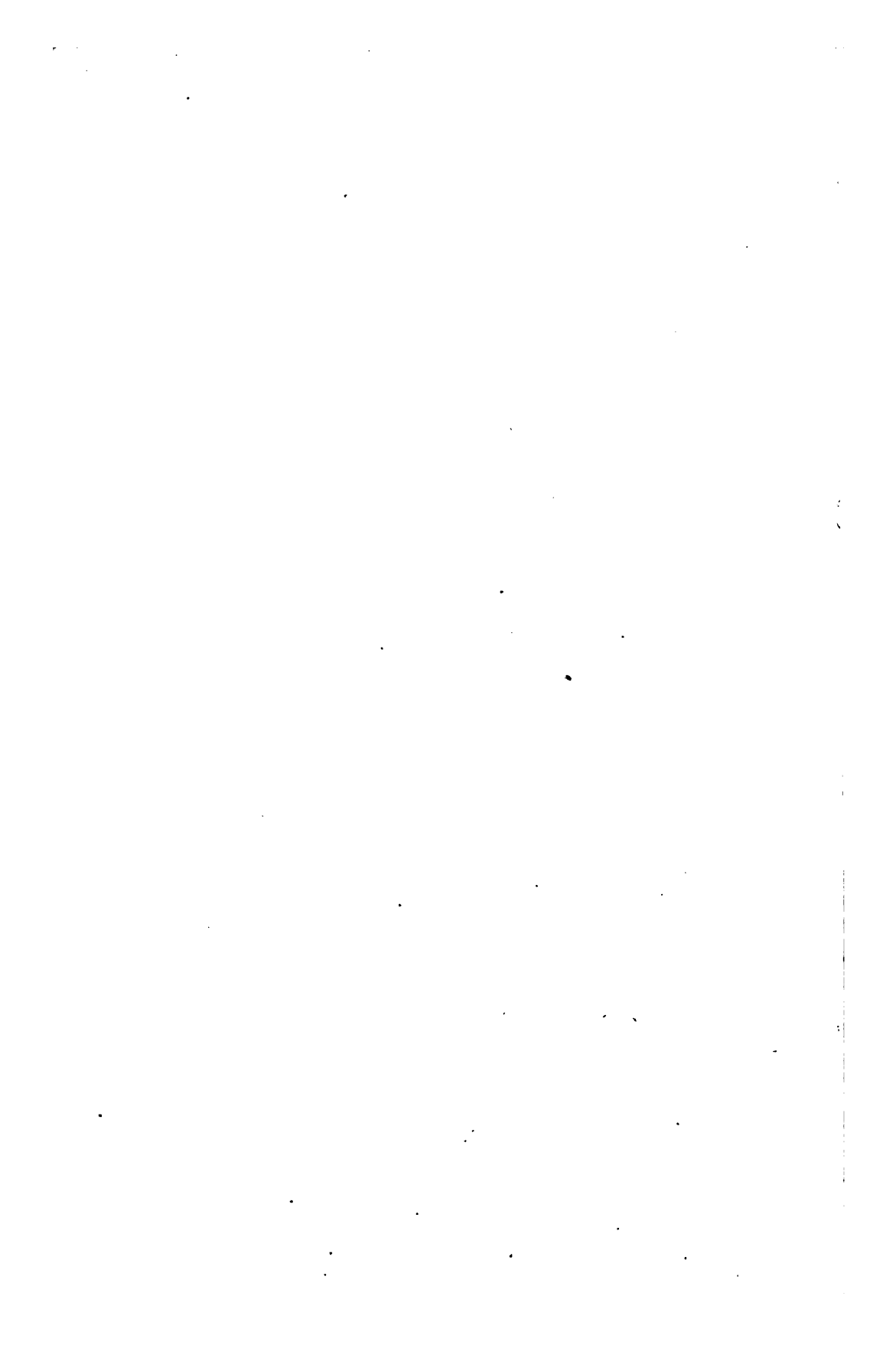
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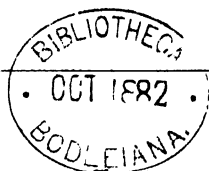
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## INTRODUCTION.

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The Bills of Exchange Act, 1882, which codifies the law relating to Bills of Exchange, Cheques, and Promissory Notes, was passed on the 18th of August, and came into immediate operation.

Under these circumstances, a handy edition of the Act, with an index and short explanatory notes of a non-technical character may perhaps be acceptable to merchants, bankers and others who will frequently have to consult the provisions of the Act in the hurry of business. I hope later on to publish a legal treatise on the Act, dealing more completely with the whole law on the subject of negotiable instruments, and comparing the Act with the foreign codes.

The Act applies to the whole of the United Kingdom, and subject to a single exception, enacts one and the same body of law for England, Ireland, and Scotland. The exception is contained in s. 53, which preserves, as regards Scotland, the Scotch rule as to the operation of a bill as an assignment of funds. The Scotch attach great importance to this rule, but the English merchants and bankers were not prepared to accept it for England,



although its adoption was recommended by the Royal Commission of 1855.

Besides assimilating the law relating to bills, notes, and cheques for the three branches of the United Kingdom, the Act is of some importance in another respect. It marks a new departure in English legislation. It so happens that it is the first piece of codification that has found its way on to the statute book. Several attempts have been made to get codifying Bills through Parliament, but hitherto they have been unsuccessful. The measure therefore must be regarded as an experimental one—if it should work well, and prove useful to the mercantile community, the precedent set by it will doubtless again be followed, and other branches of the law will in their turn be codified.

The history of the Act is as follows. The Bills of Exchange Bill, 1881, was drafted by me last year under instructions from the Institute of Bankers, who I believe acted in the matter in conjunction with the Associated Chambers of Commerce. The object of the Bill was to reproduce, as exactly as possible, the existing law on the subject in a codified form, leaving to a later stage any amendments that might seem desirable and feasible. The Bill was introduced into the House of Commons by Sir JOHN LUBBOCK (the President of the Institute), and, after having been read a second time, was not further proceeded with that Session. During the recess criti-

cisms on the measure were invited from various quarters, and many very valuable suggestions were received. This year the Bill was again introduced without alteration, and then referred to a strong Select Committee of 19 members. Sir FARRER HERSCHELL was elected chairman, and the committee included, among others, Sir J. LUBBOCK, Mr. C. BARING, Mr. R. B. MARTIN, Mr. FRY, Mr. COHEN, Q.C., Mr. WHITLEY, Mr. GIBSON, the Solicitor-General for Scotland (Mr. ASHER) and Mr. WILLIAMSON. The Bill as originally drafted applied only to England and Ireland, but the Committee were empowered to extend it to Scotland. It seemed ridiculous that in the case of an instrument so migratory as a bill or note the rights of the parties to it should vary according as it was made on the right or the left bank of the Tweed. It was found that English and Scotch law for the most part differed only on minor points of detail, and the measure was extended to Scotland.

The Bill was introduced in the House of Lords by Lord BRAMWELL, and again referred to a Select Committee, which consisted of the Law Lords, with the addition of Lords WOLVERTON and BALFOUR OF BURLEIGH. Lord BRAMWELL presided over the Committee, and Lord FITZGERALD took charge of the measure in its later stages.

The scheme of the Act is this :—first, Bills of Exchange are dealt with by themselves ; then, the provisions peculiar

to cheques are inserted, and it is provided that subject to those provisions, the provisions applicable to a bill on demand shall apply to cheques. A similar course is then pursued with reference to promissory notes.

The main provisions in which the Act either consciously alters the law, or affirms rules not always recognized in practice, are, it is believed, the following, namely :—Sect. 4 (2). Sect. 7 (2). Sect. 8 (1) and (3). Sect. 12. Sect. 14 (1). Sect. 15. Sect. 18 (3). Sect. 33. Sect. 36 (3). Sect. 39 (4). Sect. 41 (2). Sect. 44 (2). Sect. 49 (6). Sect. 51 (2). Sect. 61. Sect. 62. Sect. 54. Sect. 73. Sect. 74. Sects. 91–95. Sect. 100.

It is to be noted that the Act expressly saves and preserves the Bankruptcy and Stamp Laws and the laws relating to Joint Stock Companies and the privileges of the Bank of England and the Bank of Ireland. Questions relating to bills and notes which are not specifically dealt with by the Act are still to be governed by the common law, which includes the law merchant, that is to say the usages of trade as recognized and enforced by the courts.

The main material provisions of the Stamp Act, 1870, have been added in the Appendix.

M. D. CHALMERS.

11, NEW COURT, LINCOLN'S INN.

*22nd August, 1882.*

# Bills of Exchange Act, 1882.

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*45 and 46 Victoria, chap. 61.*

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## ARRANGEMENT OF SECTIONS.

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### PART I.

#### PRELIMINARY.

Section.

1. Short title.
2. Interpretation of terms.

### PART II.

#### BILLS OF EXCHANGE.

##### *Form and Interpretation.*

3. Bill of exchange defined.
4. Inland and foreign bills.
5. Effect where different parties to bills are the same person.
6. Address to drawee.
7. Certainty required as to payee.
8. What bills are negotiable.
9. Sum payable.
10. Bill payable on demand.

## Section.

11. Bill payable at a future time.
12. Omission of date in bill payable after date.
13. Ante-dating and post-dating.
14. Computation of time of payment.
15. Case of need.
16. Optional stipulations by drawer or indorser.
17. Definition and requisites of acceptance.
18. Time for acceptance.
19. General and qualified acceptances.
20. Inchoate instruments.
21. Delivery.

*Capacity and Authority of Parties.*

22. Capacity of parties.
23. Signature essential to liability.
24. Forged or unauthorised signature.
25. Procuration signatures.
26. Person signing as agent or in representative capacity.

*The Consideration for a Bill.*

27. Value, and holder for value.
28. Accommodation bill or party.
29. Holder in due course.
30. Presumption of value and good faith.

*Negotiation of Bills.*

31. Negotiation of bill.
32. Requisites of a valid indorsement.
33. Conditional indorsement.
34. Indorsement in blank and special indorsement.
35. Restrictive indorsement.
36. Negotiation of over-due or dishonoured bill.
37. Negotiation of bill to party already liable thereon.
38. Rights of the holder acquired by negotiation.

*General duties of the Holder.*

Section.

39. When presentment for acceptance is necessary.
40. Time for presenting bill payable after sight.
41. Rules as to presentment for acceptance, and excuses for non-presentment.
42. Non-acceptance.
43. Dishonour by non-acceptance and its consequences.
44. Duties as to qualified acceptances.
45. Rules as to presentment for payment.
46. Excuses for delay or non-presentment.
47. Dishonour by non-payment.
48. Notice of dishonour and effect of non-notice.
49. Rules as to notice of dishonour.
50. Excuses for non-notice and delay.
51. Noting or protest of bill.
52. Duties of holder as regards drawee or acceptor.

*Liabilities of Parties.*

53. Fund in hands of drawee.
54. Liability of acceptor.
55. Liability of drawer or indorser.
56. Stranger signing bill liable as indorser.
57. Measure of damages against parties to dishonoured bill.
58. Transferor by delivery and transferee.

*Discharge of Bill.*

59. Payment in due course.
60. Banker paying demand draft where an indorsement is forged.
61. Acceptor the holder at maturity.
62. Express waiver.
63. Cancellation.
64. Alteration of bill.

*Acceptance and Payment for Honour.*

Section.

- 65. Acceptance for honour *suprà* protest.
- 66. Liability of acceptor for honour.
- 67. Presentment to acceptor for honour or case of need.
- 68. Payment for honour *suprà* protest.

*Lost Instruments.*

- 69. Holder's right to duplicate of lost bill.
- 70. Action on lost bill.

*Bill in a Set.*

- 71. Rules as to sets.

*Conflict of Laws.*

- 72. Rules where laws conflict.

---

**PART III.****CHEQUES ON A BANKER.**

- 73. Cheque defined.
- 74. Presentment of cheque for payment.
- 75. Revocation of banker's authority.

*Crossed Cheques.*

- 76. General and special crossings defined.
- 77. Crossing by drawer or after issue.
- 78. Crossing a material part of cheque.
- 79. Duties of banker as to crossed cheques.
- 80. Protection to banker and drawer where cheque is crossed.
- 81. Effect of crossing on holder.
- 82. Protection to collecting banker.

PART IV.

PROMISSORY NOTES.

Section.

- 83. Promissory note defined.
- 84. Delivery necessary.
- 85. Joint and several notes.
- 86. Note payable on demand.
- 87. Presentment of note for payment.
- 88. Liability of maker.
- 89. Application of Part II. to notes.

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PART V.

SUPPLEMENTARY.

- 90. Good faith.
- 91. Signature.
- 92. Computation of time.
- 93. When noting equivalent to protest.
- 94. Protest when notary not accessible.
- 95. Dividend warrants may be crossed.
- 96. Repeal.
- 97. Savings.
- 98. Saving of summary diligence in Scotland.
- 99. Construction with other Acts, &c.
- 100. Parole evidence allowed in certain judicial proceedings in Scotland.

SCHEDULE I.—Form.

SCHEDULE II.—Repeals.

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APPENDIX.

Stamp Act, 1870 (in part).





# An Act

To Codify the Law relating to Bills of  
Exchange, Cheques, and Promissory  
Notes.

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*45 & 46 Vict., c. 61.*

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BE it enacted by the Queen's most Excellent  
Majesty, by and with the advice and consent of  
the Lords Spiritual and Temporal, and Commons,  
in this present Parliament assembled, and by the  
authority of the same, as follows :

*[18th August, 1882.]*

## PART I.

### PRELIMINARY.

1. This Act may be cited as the Bills of Exchange Short Title.  
Act, 1882.

This Act applies to the whole of the United Kingdom, that is to say,  
England, Ireland and Scotland, and takes effect from the 18th August,  
the day when it was passed.

It deals only with bills, notes and cheques, and does not directly  
affect other negotiable instruments, such as negotiable bonds or scrip,  
nor does it affect the laws relating to the issue of bank-notes. See  
sect. 97.

Interpretation of  
terms.

2. In this Act, unless the context otherwise requires,—

“Acceptance” means an acceptance completed by delivery or notification.

As to delivery or notification to complete an acceptance, see sect. 21.  
As to the requisites of a valid acceptance, see sect. 17.

“Action” includes counter claim and set off.

“Banker” includes a body of persons whether incorporated or not who carry on the business of banking.

“Bankrupt” includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to bankruptcy.

The definition includes a person who has liquidated by arrangement.

“Bearer” means the person in possession of a bill or note which is payable to bearer.

The possessor of a bill or note payable to order is not technically the “bearer” of it.

“Bill” means bill of exchange, and “note” means promissory note.

See the substantial definitions given by sects. 3 and 73.

“Delivery” means transfer of possession, actual or constructive, from one person to another.

As to delivery, see sect. 21.

“Holder” means the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof.

See sect. 38 as to rights of the holder, and sect. 29 as to “holder in due course,” and sect. 31 as to negotiation.

“Indorsement” means an indorsement completed by delivery.

“Issue” means the first delivery of a bill or note, complete in form to a person who takes it as a holder.

"Person" includes a body of persons whether incorporated or not.

"Value" means valuable consideration.

See sect. 27 as to valuable consideration.

"Written" includes printed, and "writing" includes print.

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## PART II.

### BILLS OF EXCHANGE.

#### *Form and Interpretation.*

3. (1.) A bill of exchange is an unconditional Bill of exchange defined. order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.

Sect. 97 saves the Stamp Acts. It is to be noted that many orders for the payment of money require to be stamped as bills of exchange, though they are not bills within the meaning of this Act, see *post p.* 73.

As to instruments payable on a contingency, see further sect. 11. As to a conditional indorsement, see sect. 33. As to a conditional acceptance, sect. 19.

(2.) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

An instrument running "Pay C. D. £100, and deliver to him 100 tons of coal," would not be a bill. Compare sect. 17 (2).

(3.) An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with (a) an

indication of a particular fund out of which the drawee is to re-imburse himself or a particular account to be debited with the amount, or (b) a statement of the transaction which gives rise to the bill, is unconditional.

(4.) A bill is not invalid by reason—

(a.) That it is not dated ;

(b.) That it does not specify the value given, or that any value has been given therefor ;

(c.) That it does not specify the place where it is drawn or the place where it is payable.

As to filling in the date in the case of an undated bill or acceptance, see sect. 12. It is, of course, irregular not to date a bill.

Inland and foreign bills.

4. (1.) An inland bill is a bill which is or on the face of it purports to be (a) both drawn and payable within the British Islands, or (b) drawn within the British Islands upon some person resident therein. Any other bill is a foreign bill.

For the purposes of this act "British Islands" mean any part of the United Kingdom of Great Britain and Ireland, the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent to any of them being part of the dominions of Her Majesty.

This provision does not affect the Stamp Acts, which are saved by sect. 97 (3). See the provisions of the Stamp Acts as to foreign bills, and what are foreign bills for stamp purposes, post pp. 74, 75. By sect. 51 it is unnecessary to protest a bill which does not shew on the face of it that it is a foreign bill. Sub-sect. (2) is new law.

(2.) Unless the contrary appear on the face of the bill the holder may treat it as an inland bill.

Effect where different parties to bill are the same person.

5. (1.) A bill may be drawn payable to, or to the order of, the drawer ; or it may be drawn payable to, or to the order of, the drawee.

A bill is sometimes drawn in the form "pay to your own order," when the drawee acts in two different capacities.

(2.) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

See the definition of "person" in sect. 2. As an illustration, suppose a firm has two houses, one in London, the other in Liverpool. If the London house draws on the Liverpool house, and the bill is dishonoured, the holder need not give notice of dishonour.

6. (1.) The drawee must be named or otherwise indicated in a bill with reasonable certainty.

(2.) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative or to two or more drawees in succession is not a bill of exchange.

Address to  
drawee.

7. (1.) Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty.

Certainty  
required as to  
payee.

(2.) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

This section alters the law in so far as it allows a bill to be made payable to one of two persons in the alternative, or to the holder of an office for the time being. Previously a bill payable to "the treasurer for the time being" of a society would have been invalid.

(3.) Where the payee is a fictitious or non-existing person the bill may be treated as payable to bearer.

What bills are negotiable.

8. (1.) When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but is not negotiable.

This subsection adopts the Scotch rule, and a bill made payable to John Smith is now in legal effect payable to John Smith or order. If it be desired to make a bill not transferable, it should be drawn in the form "pay John Smith only."

As to when a bill negotiable in its origin ceases to be negotiable, see sect. 36.

(2.) A negotiable bill may be payable either to order or to bearer.

(3.) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

This subsection brings the law into accordance with custom by making a special indorsement control a previous indorsement in blank, see too sect. 34.

(4.) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5.) Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

Sum payable.

9. (1.) The sum payable by a bill is a sum certain within the meaning of this Act, although it is required to be paid—

(a.) With interest.

(b.) By stated instalments.

- (c.) By stated instalments, with a provision that Sum payable.  
upon default in payment of any instalment  
the whole shall become due.
- (d.) According to an indicated rate of exchange or  
according to a rate of exchange to be  
ascertained as directed by the bill.
- (2.) Where the sum payable is expressed in words  
and also in figures, and there is a discrepancy  
between the two, the sum denoted by the words is  
amount payable.
- 3.) Where a bill is expressed to be payable with  
rest, unless the instrument otherwise provides,  
rest runs from the date of the bill, and if the bill  
dated from the issue thereof.

- 1. (1.) A bill is payable on demand— Bill payable on demand.
  - 1.) Which is expressed to be payable on demand,  
or at sight, or on presentation ; or
  - 2.) In which no time for payment is expressed.
- 2.) Where a bill is accepted or indorsed when it is  
due, it shall as regards the acceptor who so  
accepts, or any indorser who so indorses it, be  
treated as a bill payable on demand.

- 1. A bill is payable at a determinable future time Bill payable at a future time.  
in the meaning of this Act which is expressed to  
be payable—
  - 1.) At a fixed period after date or sight.
- 2. See sect. 14 (2) (3) and sect. 65 (5).
  - 1.) On or at a fixed period after the occurrence of  
a specified event which is certain to happen,  
though the time of happening may be  
uncertain.



An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

An instrument running "Pay C or order £100 on the arrival of the ship Sarah in London" would not be a bill.

Omission of date in bill payable after date or sight.

12. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly.

Provided that (1) where the holder in good faith and by mistake inserts a wrong date, and (2) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

The law on the subject dealt with by this section was previously very doubtful. See sect. 20 for the general rule as to omissions in a bill.

Ante-dating and post-dating.

13. (1.) Where a bill or an acceptance or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance, or indorsement, as the case may be.

(2.) A bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday.

It has been held under the Stamp Act, 1870, which is saved by sect. 97, that a post-dated cheque is not invalid. Apart from the Stamp Acts it is for most purposes a bill payable after date.

Computation of time of payment.

14. Where a bill is not payable on demand the day on which it falls due is determined as follows :—

- (1.) Three days, called days of grace, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace: Provided that—

Computation of  
time of payment.

- (a.) When the last day of grace falls on Sunday, Christmas Day, Good Friday, or a day appointed by Royal proclamation as a public fast or thanksgiving day, the bill is, except in the case herein-after provided for, due and payable on the preceding business day;
- (b.) When the last day of grace is a bank holiday (other than Christmas Day or Good Friday) under the Bank Holidays Act, 1871, and Acts amending or extending it, or when the last day of grace is a Sunday and the second day of grace is a Bank Holiday, the bill is due and payable on the succeeding business day.

Christmas Day and Good Friday were bank holidays in Scotland, not common law holidays: but in this respect Scotch law has now been assimilated to the English, and henceforth in Scotland, as in England, a bill falling due on Christmas Day or Good Friday will be payable on the preceding business day. As to the term "business day," see sect. 92. As to what bills are in effect payable on demand, see sect. 10.

- (2.) Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment.
- (3.) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and

from the date of noting or protest if the bill be noted or protested for non-acceptance, or for non-delivery.

See sect. 65, as to the maturity of a bill payable after sight which is accepted for honour.

(4.) The term "month" in a bill means calendar month.

Case of need.

15. The drawer of a bill and any indorser may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may think fit.

A bill must be noted before it can be presented to the referee in case of need, see sects. 65, 68. It may possibly still be necessary to resort to the case of need to charge a foreign drawer in his own country.

Optional stipulations by drawer or indorser.

16. The drawer of a bill, and any indorser, may insert therein an express stipulation—

(1.) Negating or limiting his own liability to the holder.

(2.) Waiving as regards himself some or all of the holder's duties.

Bills are sometimes indorsed "sans recours," or "without recourse," or "sans frais." See further sect. 21 (5).

Definition and requisites of acceptance.

17. (1.) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

(2.) An acceptance is invalid unless it complies with the following conditions, namely :

(a.) It must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient.

- (b.) It must not express that the drawee will perform his promise by any other means than the payment of money.

18. A bill may be accepted—

Time for acceptance.

- (1.) Before it has been signed by the drawer, or while otherwise incomplete :
- (2.) When it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment :
- (3.) When a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

19. (1.) An acceptance is either (a) general or (b) qualified. General and qualified acceptances.

As to the effect of taking a qualified acceptance and the holders option to refuse it, see sect. 44.

(2.) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

In particular an acceptance is qualified which is—

- (a.) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated :

An acceptance “ payable on delivery of bills of lading ” would be conditional.

- (b.) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn :

- (c.) local, that is to say, an acceptance to pay only at a particular specified place :

An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere :

This section reproduces the provisions of the 1 and 2 Geo., 4, c. 78. An acceptance "payable at the Ayre Bank," would be a general acceptance ; while an acceptance "payable at the Ayre Bank only," would be qualified, see further sects. 44, and 52 (2).

- (d.) qualified as to time :

- (e.) the acceptance of some one or more of the drawees, but not of all.

**Inchoate  
instruments.**

20. (1.) Where a simple signature, on a blank stamped paper is delivered by the signer in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser ; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit.

(2.) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact.

Provided that if any such instrument after completion is negotiated to a holder in due course it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up

within a reasonable time and strictly in accordance with the authority given.

See "holder in due course," defined by sect. 29, and see sect. 12 as to filling in the date when omitted.

21. (1.) Every contract on a bill, whether it be the drawer's, the acceptor's, or an indorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto. Delivery.

Provided that where an acceptance is written on a bill, and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2.) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery—

(a.) in order to be effectual must be made either by or under the authority of the party drawing, accepting, or indorsing, as the case may be :

(b.) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill be in the hands of a holder in due course a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

See "holder in due course," defined by sect. 29.

(3.) Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor, or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

*Capacity and Authority of Parties.*

Capacity of  
parties.

22. (1.) Capacity to incur liability as a party to a bill is co-extensive with capacity to contract.

Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor, or indorser of a bill unless it is competent to it so to do under the law for the time being in force relating to corporations.

A corporation is not liable on its acceptance unless it is a trading corporation, or unless it is expressly or impliedly authorised by its act of incorporation to make or accept bills : for instance, an ordinary railway company could not be sued in its acceptance.

(2.) Where a bill is drawn or indorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

Signature  
essential to  
liability.

23. No person is liable as drawer, indorser, or acceptor of a bill who has not signed it as such :  
Provided that

(1.) Where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name :

(2.) The signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners in that firm.

The rule of general law as to the liability of an undisclosed principal does not apply to bills. See as to signature by the hand of an agent, sect. 91.

A partner in a trading firm is *prima facie* entitled to bind his co-partners by drawing, indorsing, or accepting in the firm's name, and the presumption is absolute in favour of a holder in due course ; but in the case of a non-trading firm it lies on the person seeking to enforce the

bill to shew that the partner who drew, indorsed, or accepted it, had authority to bind his co-partners. Forged or unauthorised signature.

24. Subject to the provisions of this Act, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorised signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority.

Provided that nothing in this section shall affect the ratification of an unauthorised signature not amounting to a forgery.

It has been held that if the holder of a bill knowing the acceptance to be forged gets the acceptor to ratify it, the ratification fails as being contrary to public policy; but if a person whose signature has been forged so conducts himself as to induce the holder to take it to be genuine, he is not afterwards allowed to set up the forgery. As to forged indorsements on a cheque, see sects. 60 and 82. If a banker pays a bill held under a forged indorsement, he cannot debit his customer with the amount so paid.

25. A signature by procuration operates as notice Procuration signatures. that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority.

26. (1.) Where a person signs a bill as a drawer, Person signing as agent or in representative capacity. indorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature



of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

(2.) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

Sect. 97 expressly saves the operation of the Companies' Acts. When, then, a bill or note is signed by the agent or manager of a limited company, the question whether the company is bound by it depends on the provisions of sect. 47 of the Companies' Act, 1862, see post p. 65.

An agent who signs for his principal, whether his principal be a company, firm, or private individual, should either sign by a procuration signature, or prefix words to his signature specifying that he signs *for or on behalf* of his principal, thus—

“For the — Company,”

“C. D., Secretary.”

If an agent signs for his principal, without authority to do so, he is not liable as a party to the bill, but he is liable in an action for damages for breach of his implied warranty that he had authority.

### *The Consideration for a Bill.*

Value and holder  
for value.

27. (1.) Valuable consideration for a bill may be constituted by,—

- (a.) Any consideration sufficient to support a simple contract ;
- (b.) An antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2.) Where value has at any time been given for a bill the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

As an illustration, suppose a holder for value indorses a bill to an

agent for collection, the agent can sue the acceptor, but could not sue his own principal—see too sect. 29 (3).

(3.) Where the holder of a bill has a lien on it arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

Apart from special agreement, a banker has a lien for advances on all securities of his customers which come into his hands in the ordinary course of his business as a banker.

28. (1.) An accommodation party to a bill is a Accommodation bill or party. person who has signed a bill as drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person.

(2.) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

As to when notice of dishonour may be excused in the case of an accommodation bill, see sect. 50 (2), (c) and (d). As to payment of an accommodation bill by the person accommodated, see sect. 58 (3).

When a person accepts a bill for the accommodation of another, the person accommodated, is held, in the absence of any express agreement, to engage that he will provide funds for the payment of the bill at maturity, and that if, owing to his omission to do so, the accommodation acceptor is compelled to pay the bill he will indemnify him.

29. (1.) A holder in due course is a Holder in due course. holder who has taken a bill, complete and regular on the face of it, under the following conditions; namely,

- (a.) That he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact:
- (b.) That he took the bill in good faith and for value, and that at the time the bill was

negotiated to him he had no notice of any defect in the title of the person who negotiated it.

The expression "holder in due course," has been used in the Act as being less cumbrous than the technical legal phrase "*bonâ fide* holder "for value without notice." As to the effect of taking a bill which is overdue, or which is known to have been dishonoured by non-acceptance, see sect. 36. As to the rights of a holder in due course, see sect. 38. See "holder" defined by sect. 2.

(2.) In particular the title of a person who negotiates a bill is defective within the meaning of this Act when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

The expression "force and fear" is the Scotch equivalent of the English term "duress."

(3.) A holder (whether for value or not), who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

See sect. 27 (2).

Presumption of  
value and good  
faith.

**30. (1.)** Every party whose signature appears on a bill is *primâ facie* deemed to have become a party thereto for value.

(2.) Every holder of a bill is *primâ facie* deemed to be a holder in due course; but if in an action on a bill it is admitted, or proved that the acceptance, issue, or subsequent negotiation of the bill is affected

with fraud, duress, or force and fear, or illegality, the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

The fact that full money value had been given would be almost conclusive of good faith.

*Negotiation of Bills.*

31. (1.) A bill is negotiated when it is transferred <sup>Negotiation bill.</sup> from one person to another in such a manner as to constitute the transferee the holder of the bill.

See "holder" and "issue" defined by sect. 2.

(2.) A bill payable to bearer is negotiated by delivery.

See sect. 8 (3) as to indorsements in blank, and sect. 2 defining "delivery."

(3.) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

See sect. 8 and sect. 36 as to bills to order, and sect. 21 as to delivery.

(4.) Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferor.

Until the indorsement is obtained the transfer operates as what is technically known in England as an "equitable assignment."

(5.) Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

See sect. 16 as to indorsing without recourse, and see sect. 26.

Requisites of a  
valid indorse-  
ment.

**32.** An indorsement in order to operate as a negotiation must comply with the following conditions, namely :—

- (1.) It must be written on the bill itself and be signed by the indorser. The simple signature of the indorser on the bill, without additional words, is sufficient.

An indorsement written on an allonge, or on a “copy” of a bill issued or negotiated in a country where “copies” are recognised, is deemed to be written on the bill itself.

Where there is not room on a bill for all the indorsements, a slip of paper called an “allonge” is attached to the bill. To avoid the possibility of frauds, the first indorsement on the allonge is usually begun on the bill and completed on the allonge. As to “copies,” which are distinct from the parts of a set, see for instance arts. 70-72 of the German Exchange Law.

- (2.) It must be an indorsement of the entire bill.  
A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill.
- (3.) Where a bill is payable to the order of two or more payees or indorsees who are not partners all must indorse, unless the one indorsing has authority to indorse for the others.

See sect. 97 (d) as to dividend warrants.

- (4.) Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is mis-spelt, he may indorse the bill as therein described, adding, if he think fit, his proper signature.

As a rule, the payee only signs as described in the bill, without adding his proper signature. A question sometimes arises as to how a bill should be indorsed which is payable to the order of (say) "Mrs. John Jones." It is thought the proper form in such case would be for her to sign "Ellen Jones, wife of John Jones."

- (5.) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved.
- (6.) An indorsement may be made in blank or special. It may also contain terms making it restrictive.

33. Where a bill purports to be indorsed conditionally the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not. Conditional indorsement.

As between indorser and indorsee the condition presumably would be operative ; and if the indorsee received payment without the condition being fulfilled, he would hold the money in trust for the indorser. The following indorsement would be conditional :—"Pay C, or order, on "the arrival of the ship Swallow at Calcutta." "Pay C, or order, if "he marries D." See sect. 35 as to restrictive indorsement.

34. (1.) An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer. Indorsement in blank and special indorsement.

(2.) A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3.) The provisions of this Act relating to a payee apply with the necessary modifications to an indorsee under a special indorsement.

See sects. 7 and 8.

(4.) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorser's

signature a direction to pay the bill to or to the order of himself or some other person.

As to the effect of a special indorsement following an indorsement in blank, see sect. 8.

Restrictive  
indorsement.

35. (1.) An indorsement is restrictive which prohibits the further negotiation of the bill or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof, as, for example, if a bill be indorsed "Pay D only," or "Pay D for the account of "X," or "Pay D, or order for collection."

(2.) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorise him to do so.

(3.) Where a restrictive indorsement authorises further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

Negotiation of  
overdue or dis-  
honoured bill.

36. (1.) Where a bill is negotiable in its origin it continues to be negotiable until it has been (a) restrictively indorsed or (b) discharged by payment or otherwise.

See sects. 59—64 as to discharges, and sect. 35 (2) as to restrictive indorsements.

(2.) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title

than that which the person from whom he took it had.

As to "defects of title" see sect. 29 (2). The expression is used in the Act instead of the technical legal term "equity attaching to the bill."

(3.) A bill payable on demand is deemed to be overdue within the meaning and for the purposes, of this section, when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

See sect. 10 defining what bills are payable on demand, and sect. 73 as to cheques.

(4.) Except where an indorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue.

(5.) Where a bill which is not overdue has been dishonoured any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this sub-section shall affect the rights of a holder in due course.

See sect. 29 defining "holder in due course," and sect. 43 as to dishonour by non-acceptance.

37. Where a bill is negotiated back to the drawer, or to a prior indorser or to the acceptor, such party may, subject to the provisions of this Act, re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Negotiation of bill to party already liable thereon.

The provisions referred to are sect. 59 (3) and sect. 61. Suppose A indorses a bill for value to B. B negotiates the bill, and eventually it is indorsed back to A. Then A cannot sue B; for B in turn could sue A as a prior indorser.



Rights of the holder acquired by negotiation.

**38.** The rights and powers of the holder of a bill are as follows :

- (1.) He may sue on the bill in his own name :
- (2.) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill :

A set-off would be a personal defence.

- (3.) Where his title is defective (*a*) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill, and (*b*) if he obtains payment of the bill the person who pays him in due course gets a valid discharge for the bill.

See sect. 2 defining holder, sect. 29 defining holder in due course, and sect. 59 defining payment in due course.

#### *General duties of the Holder.*

When the drawer or indorser of a bill is discharged from his liability on the bill by reason of the holder's omission to present it or give notice of dishonour, the rule is that he is also discharged from any liability as regards the debt or consideration in respect of which the bill was given.

**39.** (1.) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

When presentment for acceptance is necessary.

(2.) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee it must be presented for acceptance before it can be presented for payment.

(3.) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

If an agent omitted to present a bill, he would be liable to his principal for any loss resulting from the omission.

(4.) Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

This subsection settles a doubtful point. Suppose a bill, payable one month after date, is drawn in New York on Liverpool, payable in London. It only reaches the English holder on the day it matures. He must, nevertheless, present it for acceptance to the drawee in Liverpool. Formerly the usual practice was to protest the bill in London without any presentment to the drawee.

40. (1.) Subject to the provisions of this Act, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time.

Time for presenting bill payable after sight.

For the provisions referred to see sect. 41 (2).

(2.) If he do not do so, the drawer and all indorsers prior to that holder are discharged.

(3.) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

41. (1.) A bill is duly presented for acceptance which is presented in accordance with the following rules:

(a.) The presentment must be made by or on behalf of the holder to the drawee or to some person authorised to accept or refuse

Rules as to presentment for acceptance, and excuses for non-presentment.

Rules as to  
presentment for  
acceptance.

acceptance on his behalf at a reasonable hour on a business day and before the bill is overdue.

Putting a bill in the bill-box, or giving a bill to a clerk in the office in the usual way, is, of course, a presentment to the drawee. But if the drawee is not a trader, presenting the bill to the servant who opened the door would not be sufficient. Reasonable diligence must be used to find the drawee, or some person authorised to act for him.

(b.) When a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only.

(c.) Where the drawee is dead, presentment may be made to his personal representative.

(d.) Where the drawee is bankrupt, presentment may be made to him or to his trustee.

See "bankrupt," defined by sect. 2.

(e.) Where authorized by agreement or usage, a presentment through the post office is sufficient.

(2.) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(a.) Where the drawee is dead or bankrupt, or is a fictitious person or a person not having capacity to contract by bill :

(b.) Where, after the exercise of reasonable diligence, such presentment cannot be effected :

(c.) Where, although the presentment has been irregular, acceptance has been refused on some other ground.

(3.) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured does not excuse presentment.

42. (1.) When a bill is duly presented for acceptance and is not accepted within the customary time, the person presenting it must treat it as dishonoured, by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and indorsers. Non-acceptance.

The customary time is usually stated to be 24 hours. The probable effect of the section is this. If a bill left for acceptance within business hours one day is not accepted before the close of business hours on the next day it must be noted for non-acceptance, or otherwise treated as dishonoured. As to protesting a bill for non-delivery, see sect. 51 (8).

43. (1.) A bill is dishonoured by non-acceptance— Dishonour by non-acceptance and its consequences.

(a.) When it is duly presented for acceptance, and such an acceptance as is prescribed by this Act is refused or cannot be obtained ; or

(b.) When presentment for acceptance is excused and the bill is not accepted.

(2.) Subject to the provisions of this Act when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

For the provisions referred to see sect. 65 as to acceptance for honour.

44. (1.) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance. Duties as to qualified acceptances.

(2.) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorised the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer

or indorser is discharged from his liability on the bill.

The provisions of this sub-section do not apply to a partial acceptance, whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance.

See sect. 19 as to what is a qualified acceptance. The most important instance is the case of a bill accepted payable against delivery of bills of lading. In some trades the practice of taking such acceptances is so common that it might perhaps be held that there was implied authority to the holder to take such an acceptance. Sometimes, too, the terms of a documentary bill are such as impliedly to authorise it.

When the holder takes a partial acceptance he should give notice of the qualification, not notice of dishonour.

(3.) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder he shall be deemed to have assented thereto.

Rules as to  
presentment for  
payment.

45. Subject to the provisions of this Act a bill must be duly presented for payment. If it be not so presented the drawer and indorsers shall be discharged.

For the provisions referred to see sect. 46.

A bill is duly presented for payment which is presented in accordance with the following rules:—

(1.) Where the bill is not payable on demand, presentment must be made on the day it falls due.

As to calculating the due date in such case, see sect. 14.

(2.) Where the bill is payable on demand, then, subject to the provisions of this Act, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time

after its indorsement, in order to render the indorser liable.

Rules as to  
presentment for  
payment.

As to what bills are payable on demand, see sect. 10 ; as to cheques, see sect. 74.

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.

- (3.) Presentment must be made by the holder or by some person authorised to receive payment on his behalf at a reasonable hour on a business day, at the proper place as hereinafter defined, either to the person designated by the bill as payer, or to some person authorised to pay or refuse payment on his behalf if with the exercise of reasonable diligence such person can there be found.
- (4.) A bill is presented at the proper place :—
  - (a.) Where a place of payment is specified in the bill and the bill is there presented :
  - (b.) Where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented :
  - (c.) Where no place of payment is specified and no address given and the bill is presented at the drawee's or acceptor's place of business if known, and if not, at his ordinary residence if known :
  - (d.) In any other case if presented to the drawee or acceptor wherever he can be found, or if presented at his last known place of business or residence :

(5.) Where a bill is presented at the proper place and after the exercise of reasonable diligence no person authorised to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.

(6.) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.

Of course, if one pays, or, in refusing payment, acts as the agent of the others, that is enough.

(7.) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found.

The rules as to presentment for payment differ somewhat from those as to presentment for acceptance, because of the different nature of the act to be performed by the drawee or his agent. In the one case he has to hand over a sum of money; in the other, he has to sign a contract to be performed at a future day. Neither the death nor the bankruptcy of the payer excuse presentment for payment.

(8.) Where authorised by agreement or usage, a presentment through the post office is sufficient.

Excuses for  
delay or non-  
presentment  
for payment.

46. (1.) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate presentment must be made with reasonable diligence.

(2.) Presentment for payment is dispensed with,—

(a.) Where, after the exercise of reasonable

diligence presentment, as required by this Act, cannot be effected.

The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity of presentment.

(*b.*) Where the drawee is a fictitious person.

(*c.*) As regards the drawer where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented.

(*d.*) As regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented.

(*e.*) By waiver of presentment, express or implied.

The waiver may be before or after the omission to present. If the drawer or indorser promises to pay the bill after he knows that it has not been duly presented, he would be held to have waived presentment.

47.—(1.) A bill is dishonoured by non-payment (*a*) Dishonour by non-payment. when it is duly presented for payment and payment is refused or cannot be obtained, or (*b*) when presentment is excused and the bill is overdue and unpaid.

(2.) Subject to the provisions of this Act, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

For the provisions referred to, see sects. 65—68, as to acceptance and payment for honour.



Notice of dishonour and effect of non-notice.

**48.** Subject to the provisions of this Act, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged; Provided that—

(1.) Where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission, shall not be prejudiced by the omission.

See holder in due course defined by sect. 29. For the provisions referred to see sect. 50.

(2.) Where a bill is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

Rules as to notice of dishonour.

**49.** Notice of dishonour in order to be valid and effectual must be given in accordance with the following rules —

- (1.) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill.
- (2.) Notice of dishonour may be given by an agent either in his own name or in the name of any party entitled to give notice whether that party be his principal or not.
- (3.) Where the notice is given by or on behalf of the holder it enures for the benefit of subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given.

Suppose a bill drawn by A is indorsed by C. If the holder gives notice to the drawer as well as C, then C can take advantage of that notice. If, on the other hand, the holder gives notice to C only, and C gives notice to the drawer, then both the holder and C can take advantage of that notice ; but if C did not send on notice the holder could sue C, but no one could sue the drawer.

Rules as to  
notice of  
dishonour.

- (4.) Where notice is given by or on behalf of an indorser entitled to give notice as herein-before provided, it enures for the benefit of the holder, and all indorsers subsequent to the party to whom notice is given.
- (5.) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment.

The object of the section appears to be to negative, as far as possible, the technicalities which had grown up around notices of dishonour. The following forms are suggested as complying with the terms of the Act.

NOTICE OF DISHONOUR TO DRAWER.

[*Date and Address.*]

Please take notice that a bill for £ drawn by you under date the  
on and payable has been dishonoured  
by non-payment [*or non-acceptance.*] (Signed) C. D.  
To Mr. A. B.

NOTICE OF DISHONOUR TO INDORSER.

[*Date and Address.*]

Please take notice that a bill for £ drawn by under  
date the on and payable and which  
bears your indorsement has been dishonoured by non-acceptance [*or*  
non-payment.] (Signed) C. D.  
To Messrs. A. B. & Co.

- (6.) The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour.

This subsection recognizes a common practice of collecting bankers which before was of doubtful validity.

Rules as to  
notice of  
dishonour.

- (7.) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.
- (8.) Where notice of dishonour is required to be given to any person, it may be given either to the party himself, or to his agent in that behalf.
- (9.) Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative if such there be, and with the exercise of reasonable diligence he can be found.
- (10.) Where the drawer or indorser is bankrupt, notice may be given either to the party himself or to the trustee.
- (11.) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others.
- (12.) The notice may be given as soon as the bill is dishonoured and must be given within a reasonable time thereafter.

In the absence of special circumstances notice is not deemed to have been given within a reasonable time, unless—

- (a.) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill.

- (b.) where the person giving and the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day then by the next post thereafter. Rules as to notice of dishonour.
- (13.) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.
- (14.) Where a party to a bill receives due notice of dishonour, he has after the receipt of such notice the same period of time for giving notice to antecedent parties that the holder has after the dishonour.
- (15.) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office.

50.—(1.) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct, or negligence. Excuses for non-notice and delay. When the cause of delay ceases to operate the notice must be given with reasonable diligence.

As to delay in the post, see sect. 49 (15).

- (2.) Notice of dishonour is dispensed with—

- (a.) When, after the exercise of reasonable diligence, notice as required by this Act cannot be given to or does not reach the drawer or indorser sought to be charged :
- (b.) By waiver express or implied. Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice :
- (c.) As regards the drawer in the following cases, namely, (1) where drawer and drawee are the same person, (2) where the drawee is a fictitious person or a person not having capacity to contract, (3) where the drawer is the person to whom the bill is presented for payment, (4) where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill, (5) where the drawer has countermanded payment :
- (d.) As regards the indorser in the following cases, namely—(1) where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the bill, (2) where the indorser is the person to whom the bill is presented for payment, (3) where the bill was accepted or made for his accomodation.

Compare this section with sect. 46, as to excuses for non-presentment, or delay in presentment. See "person" defined by sect. 2.

Noting or  
protest of bill.

51.—(1.) Where an inland bill has been dishonoured it may, if the holder think fit, be noted for non-acceptance or non-payment, as the case may be.

If an inland bill be noted the expenses of noting can be recovered, see sect. 57 (1) ; but it is optional with the holder to note the bill or

not. The act attaches no legal consequence to noting an inland bill, except by making it a necessary preliminary to acceptance or payment for honour, see sects. 65 and 67. See "inland bill" defined by sect 4. For the purpose of summary diligence in Scotland an inland bill must be protested as heretofore, see sect. 98.

(2.) Where a foreign bill, appearing on the face of it to be such, has been dishonoured by non-acceptance it must be duly protested for non-acceptance, and where such a bill, which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be a foreign bill, protest thereof in case of dishonour is unnecessary.

(3.) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

Protest in such case may be necessary in order to charge a foreign drawer or indorser in his own country. The necessity would depend on the law of the country in question. An English Act can only lay down the law for the United Kingdom.

(4.) Subject to the provisions of this Act, when a bill is noted or protested, it must be noted on the day of its dishonour. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

See further sect. 93, as to subsequently extending the protest and sub-section (9).

(5.) Where the acceptor of a bill becomes bankrupt or insolvent or suspends payment before it matures the holder may cause the bill to be protested for better security against the drawer and indorsers.

The only consequence of such a protest in the United Kingdom seems to be that the bill may then be accepted for honour, see sect. 65. Under some of the foreign codes the drawer and indorsers are in such cases compelled to give security to the holder.

(6.) A bill must be protested at the place where it is dishonoured :

Provided that—

- (a.) When a bill is presented through the post office, and returned by post dishonoured, it may be protested at the place to which it is returned and on the day of its return if received during business hours, and if not received during business hours, then not later than the next business day :

This subsection recognises the custom of the Liverpool notaries as to bills drawn on the cotton spinners in Lancashire.

- (b.) When a bill drawn payable at the place of business or residence of some person other than the drawee, has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

(7.) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

- (a.) The person at whose request the bill is protested.
- (b.) The place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given, if any, or the fact that the drawee or acceptor could not be found.

See sect. 94, as to protest where the services of a notary are not available. The Act does not require a protest to be under seal. As to the stamp, see post p. 80.

(8.) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

As to lost bills, see further sects. 69, 70.

(9.) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

52.—(1.) When a bill is accepted generally presentment for payment is not necessary in order to render the acceptor liable.

Duties of holder as regards drawee or acceptor.

The theory of the law is that the debtor should seek out his creditor. The practical effect of this rule is that the acceptor cannot take advantage of any irregularity in the presentment. If the holder were to commence an action without having first presented the bill, the Court, presumably, would make him pay the costs.

(2.) When by the terms of a qualified acceptance presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

See sects. 19 and 44, as to qualified acceptances.

(3.) In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

Protest is still necessary for the purposes of summary diligence in Scotland, see sect. 98.

(4.) Where the holder of a bill presents it for



payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

*Liabilities of Parties.*

Fund in hands of drawee.

53.—(1.) A bill, of itself, does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Act is not liable as the instrument. This subsection shall not extend to Scotland.

(2.) In Scotland where the drawee of a bill has in his hands funds available for the payment thereof, the bill operates as an assignment of the sum for which it is drawn in favour of the holder from the time when the bill is presented to the drawee.

Liability of acceptor.

54. The acceptor of a bill, by accepting it :

(1.) Engages that he will pay it according to the tenour of his acceptance :

See sect. 19, as to general and qualified acceptances.

(2.) Is precluded from denying to a holder in due course—

(a.) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill :

(b.) In the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement :

(c.) In the case of a bill payable to the order of a

third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement.

55.—(1.) The drawer of a bill by drawing it—

Liability of  
drawer or  
indorser

- (a.) Engages that on due presentment it shall be accepted and paid according to its tenour, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken ;
- (b.) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse ;

(2.) The indorser of a bill by indorsing it—

- (a.) Engages that on due presentment it shall be accepted and paid according to its tenour, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken ;
- (b.) Is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements ;
- (c.) Is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.

56. Where a person signs a bill otherwise than as

Stranger signing  
bill liable as  
indorser.

drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course.

If a person who is not the holder of a bill, backs it with his signature, he does not strictly speaking indorse it, but the Act provides that he shall incur the same liabilities as an indorser, as to which see sect. 55 (2).

Measure of  
damages against  
parties to dis-  
honoured bill.

57. Where a bill is dishonoured, the measure of damages, which shall be deemed to be liquidated damages, shall be as follows :

- (1.) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior indorser—
  - (a.) The amount of the bill :
  - (b.) Interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case :
  - (c.) The expenses of noting, or, when protest is necessary, and the protest has been extended, the expenses of protest.
- (2.) In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange with interest thereon until the time of payment.

The re-exchange is the measure of the loss resulting from the

dishonour of a bill in a country different to that in which it was drawn or indorsed. The sum recoverable against a drawer or indorser in the United Kingdom, is the sum for which a sight bill drawn at the time and place of dishonour on the place where the drawer or indorser resides, must be drawn in order to realize, at the place of dishonour, the amount of the dishonoured bill and the expenses consequent on its dishonour. The expenses consequent on dishonour mean the expenses of protest, postage, customary commission and brokerage, and if a re-draft be drawn, the price of the stamp.

- (3.) Where by this Act interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

58. (1.) Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery."  
Transferor by delivery and transferee.

(2.) A transferor by delivery is not liable on the instrument.

(3.) A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee being a holder for value that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

See "holder" and "delivery," defined by sect. 2, bill "payable to bearer," defined by sect. 8.

*Discharge of Bill.*

59. (1.) A bill is discharged by payment in due course by or on behalf of the drawee or acceptor.  
Payment in due course.

“Payment in due course” means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective.

A person who makes title to a bill through a forged indorsement is not the holder, see sects. 2, 24 and 38.

(2.) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser it is not discharged ; but

(a.) Where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill.

(b.) Where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements, and again negotiate the bill.

(3.) Where an accommodation bill is paid in due course by the party accommodated the bill is discharged.

If a bill is accepted for the accommodation of the drawer, or an indorser, and he pay it, it is discharged, because he is the person ultimately liable in respect of the bill.

Banker paying  
demand draft  
where an indorse-  
ment is forged.

60. When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the

authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority.

This section reproduces in substance the 16 and 17 Vict., c. 59, s. 19, but that enactment has not been repealed, as it may possibly apply to some "drafts or orders" which are not bills or cheques. As to forgery in other cases, see sect. 24.

61. When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged. Acceptor the holder at maturity.

It was formerly held at common law, that where the acceptor of a bill became the holder of it as executor of the late holder the bill was discharged. This section apparently negatives that rule.

62. (1.) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged. Express waiver.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

The provision requiring the renunciation to be in writing is new in England.

(2.) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

63. (1.) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged. Cancellation.

(2.) In like manner any party liable on a bill may be discharged by the intentional cancellation of his

signature by the holder or his agent. In such case any indorser who would have had a right of recourse against the party whose signature is cancelled, is also discharged.

(3.) A cancellation made unintentionally, or under a mistake, or without the authority of the holder is inoperative ; but where a bill or any signature thereon appears to have been cancelled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or, without authority.

*Alteration of bill.*

64. (1.) Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is discharged except as against a party who has himself made, authorised, or assented to the alteration, and subsequent indorsers.

Provided that,

Where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenour.

The proviso is new and mitigates the rigour of the existing law.

Sect. 97 saves the operation of the stamp acts. Where, then, an alteration is such as to make the instrument a new bill requiring a fresh stamp, the bill may be void under the Stamp Acts, though otherwise enforceable under this section.

(2.) In particular the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and where a bill has been accepted generally the

addition of a place of payment without the acceptor's assent.

The alteration of the number on a bank note, and the addition of a maker to a joint and several note, have been held to be material alterations.

*Acceptance and Payment for Honour.*

65. (1.) Where a bill of exchange has been pro-  
tested for dishonour by non-acceptance, or protested Acceptance for  
honour *suprà*  
protest.  
for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill *suprà* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

By virtue of sect. 93, it is sufficient that the bill has been noted, without the protest having been actually extended.

The person for whose account the bill is drawn is commonly spoken of as the "third account."

(2.) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3.) An acceptance for honour *suprà* protest in order to be valid must—

(a.) be written on the bill, and indicate that it is an acceptance for honour :

(b.) be signed by the acceptor for honour.

Compare sect. 68 (3), (4). The clause in the Bill requiring acceptance for honour to be attested by a notarial act was cut out in committee.

(4.) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5.) Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance and not from the date of the acceptance for honour.



This subsection affirms the existing practice, and gets rid of an inconvenient decision that the maturity should be calculated from the date of acceptance for honour.

Liability of  
acceptor for  
honour.

66. (1.) The acceptor for honour of a bill by accepting it engages that he will, on due presentment pay the bill according to the tenour of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts.

(2.) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

The rights of an acceptor for honour who pays are those of an ordinary payer for honour.

Presentment to  
acceptor for  
honour or case of  
need.

67. (1.) Where a dishonoured bill has been accepted for honour *suprà* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

By virtue of sect. 93, it is sufficient that the bill has been noted without the protest having been extended.

(2.) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

(3.) Delay in presentment or non-presentment is excused by any circumstance which would excuse

delay in presentment for payment or non-presentment for payment.

See sect. 46.

(4.) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

68. (1.) Where a bill has been protested for non-payment, any person may intervene and pay it <sup>Payment for honour *suprà* protest.</sup> *suprà* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

By virtue of sect. 93, it is sufficient that the bill has been noted, without the protest having been extended.

(2.) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

(3.) Payment for honour *suprà* protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it.

(4.) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5.) Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

(6.) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7.) Where the holder of a bill refuses to receive payment *suprà* protest he shall lose his right of recourse against any party who would have been discharged by such payment.

### *Lost Instruments.*

Holder's right  
to duplicate of  
lost bill.

69. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenour, giving security to the drawer if required to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

Action on lost  
bill.

70. In any action or proceeding upon a bill, the court or a judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the satisfaction of the court or judge against the claims of any other person upon the instrument in question.

As to protest of a lost bill, see sect. 51 (8).

### *Bill in a Set.*

Rules as to sets.

71. (1.) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference

to the other parts, the whole of the parts constitute one bill.

As to stamping a bill in a set, see *post* p. 77.

(2.) Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3.) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders deemed the true owner of the bill ; but nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4.) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

See sect. 29, defining holder in due course.

(5.) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

(6.) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

### *Conflict of Laws.*

72. Where a bill drawn in one country is negotiated, accepted, or payable in another, the rights, duties, and

Rules where laws conflict.

Rules where  
laws conflict.

liabilities, of the parties thereto are determined as follows—

- (1.) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity, as regards requisites in form, of the supervening contracts, such as acceptance, or indorsement, or acceptance *suprà* protest, is determined by the law of the place where such contract was made.

Provided that—

- (a.) Where a bill is issued out of the United Kingdom it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue :
  - (b.) Where a bill, issued out of the United Kingdom, conforms, as regards requisites in form, to the law of the United Kingdom, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in the United Kingdom.
- (2.) Subject to the provisions of this Act, the interpretation of the drawing, indorsement, acceptance, or acceptance *suprà* protest of a bill, is determined by the law of the place where such contract is made.

Provided that where an inland bill is indorsed in a foreign country the indorsement shall as regards the payer be interpreted according to the law of the United Kingdom.

The provisions referred to must be apparently the remaining provisions of the section, and sect. 53.

As an illustration, an indorsement in blank in France does not operate as an ordinary indorsement, but only as a “procuracion:” that

is, roughly speaking, it is an indorsement for collection. If a bill, drawn in New York on London, is indorsed in Paris, the effect of the indorsement is to be determined by French law. Rules where laws conflict.

- (3.) The duties of the holder with respect to presentment for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour, or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.
- (4.) Where a bill is drawn out of, but payable in, the United Kingdom and the sum payable is not expressed in the currency of the United Kingdom, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.

If a bill is drawn in New York on London, and the amount is expressed in dollars, the sum in English money which the holder is entitled to receive will be ascertained according to this rule. See a different rule for stamp purposes, *post* p. 71.

- (5.) Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

The French code does not allow days of grace; under this section a bill drawn in Paris on London is entitled to three days of grace, while a bill drawn in London on Paris is not entitled to any days of grace.

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### PART III.

#### CHEQUES ON A BANKER.

73. A cheque is a bill of exchange drawn on a banker payable on demand. Cheque defined.

Cheque.

Except as otherwise provided in this part, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque.

The provisions which specially relate to bills payable on demand are :—Sect. 10, which defines what bills are in legal effect payable on demand ; sect. 36 (3), which specifies the conditions under which a person who takes a stale cheque takes it at his peril ; sect. 45 (2), in so far as it relates to presentment to charge an indorser, but not in so far as it relates to the drawer ; sect. 64, which provides that the banker is not responsible if he pays a cheque held under a forged or unauthorised indorsement.

Inasmuch as a cheque is a bill of exchange, it follows that, if dishonoured on presentment, notice of dishonour must be given to the drawer (and indorser, if any), unless the case comes within one of the exceptions specified in sect. 50 (2).

The term cheque was formerly used only in relation to inland drafts, but it now clearly includes demand drafts drawn abroad on a banker here.

The following sections are of special importance in relation to cheques, namely :—Sect. 9 (2), discrepancy between words and figures as to amount payable ; sect. 24, forgery of drawer's signature ; sect. 27 (3), banker's lien on cheques which he collects ; sect. 45, mode of presentment ; sect. 59, payment ; sect. 63, cancellation.

Presentment of  
cheque for pay-  
ment.

#### 74. Subject to the provisions of this Act—

The provisions referred to, presumably, are those of sect. 46, which deals with excuses for non-presentment.

- (1.) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right at the time of such presentment, as between him and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger

amount than he would have been had such cheque been paid.

- (2.) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.
- (3.) The holder of such cheque as to which such drawer or person is discharged shall be a creditor in lieu of such drawer or person of such banker to the extent of such discharge, and entitled to recover the amount from him.

This section is new law. It was introduced in the Lords to mitigate the rigour of the common law rule, according to which, if the bank failed before the cheque was presented, the drawer was discharged, even though the bank eventually paid nineteen shillings in the pound. The rule operates as follows :—

A draws a cheque for £100 on his banker, which is not presented within a reasonable time. The banker fails, A having at the time sufficient money to his credit to meet the cheque. A is discharged ; but the holder can prove for £100 against the banker's estate.

75. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

Revocation of  
banker's  
authority.

- (1.) Countermand of payment :
- (2.) Notice of the customer's death.

The authority of a banker to pay a cheque is also determined by notice that the customer has committed an act of bankruptcy—notice in this case meaning knowledge, see sect. 97, saving the effect of the bankruptcy laws.

The clause in the Bill which dealt with the relations of banker and customer was omitted as belonging more properly to general law than the special subject of the Act.

Apart from special agreement, the relation of banker and customer is held to be that of debtor and creditor ; the customer being the



creditor, and having, in addition to the ordinary rights of a creditor, the right to draw cheques on his banker to the extent of the balance at his credit and disposal. If the banker, having sufficient funds in hand, dishonours his customer's cheque, he is liable to him in action for damages. When a bank has several branches, a customer having an account at one branch is not, in the absence of special agreement, entitled to draw on another branch.

*Crossed Cheques.*

General and  
special crossings  
defined.

76. (1) Where a cheque bears across its face an addition of—

(a.) The words “and company” or any abbreviation thereof between two parallel transverse lines, either with or without the words “not negotiable”; or,

(b.) Two parallel transverse lines simply, either with or without the words “not negotiable,” that addition constitutes a crossing, and the cheque is crossed generally.

(2.) Where a cheque bears across its face an addition of the name of a banker, either with or without the words “not negotiable,” that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

Sects. 76 to 82 reproduce, with two slight additions, the provisions of the Crossed Cheques Act, 1876 (39 and 40 Vict. c. 81).

Crossing by  
drawer or after  
issue.

77. (1.) A cheque may be crossed generally or specially by the drawer.

(2.) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3.) Where a cheque is crossed generally the holder may cross it specially.

(4.) Where a cheque is crossed generally or specially, the holder may add the words “not negotiable.”

(5.) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6.) Where an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

Subsections (1) and (6) are new.

78. A crossing authorised by this Act is a material Crossing a material part of cheque. part of the cheque ; it shall not be lawful for any person to obliterate or, except as authorised by this Act, to add to or alter the crossing.

As to the effect of a material alteration, see sect. 64.

79. (1). Where a cheque is crossed specially to Duties of banker as to crossed cheques. more than one banker, except when crossed to an agent for collection being a banker, the banker on whom it is drawn shall refuse payment thereof.

(2.) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorised by this Act, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor

shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorised by this Act, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

Protection to  
banker and  
drawer where  
cheque is crossed.

80. Where the banker, on whom a crossed cheque is drawn in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Effect of crossing  
on holder.

81. Where a person takes a crossed cheque which bears on it the words "not negotiable," he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Suppose a cheque to bearer crossed "not negotiable" is stolen. The thief gets it cashed by B, a tradesman, who acts in complete good faith in so doing. B gets no better title than the thief. He cannot retain the cheque as against the true owner, and if payment of it is stopped he cannot sue the drawer.

Protection to  
collecting banker

82. Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto,

the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

This section reproduces the second clause of sect. 12 of the Crossed Cheques Act, 1876, as interpreted by the case of *Mathiesson v. London and County Bank*, 5 C.P.D. 7. As to what is a cheque "crossed" "generally or specially," see sect. 76.

## PART IV.

### PROMISSORY NOTES.

83. (1.) A promissory note is an unconditional Promissory note defined. promise in writing made by one person to another signed by the maker, engaging to pay, on demand, or at a fixed or determinable future time, a sum certain in money to, or to the order of, a specified person or to bearer.

See further sects. 3 and 11 and notes thereto.

(2.) An instrument in the form of a note payable to maker's order, is not a note within the meaning of this section unless and until it is indorsed by the maker.

(3.) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4.) A note which is or on the face of it purports to be both made and payable within the British Islands is an inland note. Any other note is a foreign note.

See further sect. 4, as to inland and foreign bills.

Delivery  
necessary.

84. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

As to delivery, see sects. 2 and 21.

Joint and several  
notes.

85. (1.) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally according to its tenour.

(2.) Where a note runs "I promise to pay," and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable on  
demand.

86. Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

As to when a note is in legal effect payable on demand, see sect. 10. In the case of a note payable on demand the Statute of Limitations runs in favour of the maker from the date of the note, and not from the date of its dishonour.

(2.) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3.) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

This subsection negatives the application of sect. 36 (3) to notes.

Presentment of  
note for payment.

87. (1.) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to

render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

See sect. 52 and note thereto.

(2.) Presentment for payment is necessary in order to render the indorser of a note liable.

See sects. 45 and 46, as to presentment and notes thereto.

(3.) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

**88.** The maker of a promissory note by making it— Liability of maker.

- (1.) Engages that he will pay it according to its tenour;
- (2.) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

**89.** (1.) Subject to the provisions in this part, and except as by this section provided, the provisions of this Act relating to bills of exchange, apply, with the necessary modifications, to promissory notes. Application of Part II. to notes.

(2.) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3.) The following provisions as to bills do not apply to notes ; namely, provisions relating to—

(a.) Presentment for acceptance ;

(b.) Acceptance ;

(c.) Acceptance *suprà* protest ;

(d.) Bills in a set ;

(4.) Where a foreign note is dishonoured, protest thereof is unnecessary.

For the purpose of charging a foreign maker or indorser in his own country protest may, perhaps, still be necessary.

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## PART V.

### SUPPLEMENTARY.

Good faith.

90. A thing is deemed to be done in good faith, within the meaning of this Act, where it is in fact done honestly ; whether it is done negligently or not.

Signature.

91. (1.) When, by this Act, any instrument or writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority.

(2.) In the case of a corporation, where, by this Act, any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

See sects. 23 to 26 *ante*.

**92.** Where, by this Act, the time limited for doing <sup>Computation time.</sup> any act or thing in less than three days, in reckoning time, non-business days are excluded.

“Non-business days” for the purposes of this Act mean (a) Sunday, Good Friday, Christmas Day.

(b.) A bank holiday under the Bank Holidays Act, 1871, or Acts amending it.

(c.) A day appointed by Royal proclamation as a public fast or thanksgiving day.

Any other day is a business day.

See e.g., sect. 49 (12) ; sect. 67 (2).

**93.** For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding ; and the formal protest may be extended at any time thereafter as of the date of the noting. <sup>When noting equivalent to protest.</sup>

See especially sects. 65 to 68.

**94.** Where a dishonoured bill or note is authorised <sup>retest when notary not accessible.</sup> or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill.

The form given in Schedule 1 to this Act may be used with necessary modifications, and if used shall be sufficient.

This section gives effect to the English practice in the case in question.



Dividend  
warrants may be  
crossed.

95. The provisions of this Act as to crossed cheques shall apply to a warrant for payment of dividend.

The Crossed Cheques Act only applied in terms to the dividend warrants of the Bank of England and Bank of Ireland. The present section is general.

Repeal.

96. The enactments mentioned in the second schedule to this Act are hereby repealed as from the commencement of this Act to the extent in that schedule mentioned.

Provided that such repeal shall not affect anything done or suffered, or any right, title, or interest acquired or accrued before the commencement of this Act, or any legal proceeding or remedy in respect of any such thing, right, title, or interest.

Savings.

97. (1.) The rules in bankruptcy relating to bills of exchange, promissory notes, and cheques, shall continue to apply thereto notwithstanding anything in this Act contained.

(2.) The rules of common law including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to bills of exchange, promissory notes, and cheques.

(3.) Nothing in this Act or in any repeal effected thereby shall affect—

(a.) The provisions of the Stamp Act, 1870, or Acts amending it, or any law or enactment for the time being in force relating to the revenue :

See the material provisions of the Stamp Act, 1870, set out in the appendix.

(b.) The provisions of the Companies Act, 1862, or

Acts amending it, or any Act relating to joint stock banks or companies :

By sect. 47 of the Companies' Act, 1862 (25 & 26 Vict. c. 89), it is provided—

47. A promissory note or bill of exchange shall be deemed to have been made, accepted or indorsed on behalf of any company under this Act, if made, accepted or indorsed in the name of the company by any person acting under the authority of the company, as if made, accepted or indorsed by, or on behalf or on account of, the company by some person acting under the authority of the company.

(c.) The provisions of any Act relating to or confirming the privileges of the Bank of England or the Bank of Ireland respectively.

By virtue of the Bank Charter Acts (subject to certain exceptions as to old banks of issue) a banker in England may not make or accept any bill or note which purports to be, or in legal effect is, payable to bearer on demand.

(d.) The validity of any usage relating to dividend warrants, or the indorsement thereof.

When a dividend warrant is payable to the order of two or more persons, the usage is to pay on the indorsement of any one of them. If, and in so far as this usage is now valid it is preserved, see sect. 32 (3).

98. Nothing in this Act or in any repeal effected thereby shall extend or restrict, or in any way alter or affect the law and practice in Scotland in regard to summary diligence.

Saving of summary diligence in Scotland.

As to summary diligence in Scotland, that is to say, the summary enforcement of a bill or note, see 12 Geo. 3. c. 72. sects. 37, 39—43, and 1 & 2 Vict. c. 114, sects. 1, 9.

A summary procedure in England was given by the Act of 1855, 18 & 19 Vict., c. 67; but the procedure under that Act has been abrogated as regards the High Court by Order II., 6a, of the Rules of the Supreme Court, and the summary procedure under Order XIV. of those Rules has been substituted. The Act of 1855 still applies to some of the inferior courts in England; e.g., the Mayor's Court of London.

99. Where an Act or document refers to any enact-

Construction with other Acts, &c.

ment repealed by this Act, the Act or document shall be construed, and shall operate, as if it referred to the corresponding provisions of this Act.

Parole evidence  
allowed in  
certain judicial  
proceedings in  
Scotland.

100. In any judicial proceeding in Scotland, any fact relating to a bill of exchange, bank cheque, or promissory note, which is relevant to any question of liability thereon, may be proved by parole evidence : Provided that this enactment shall not in any way affect the existing law and practice whereby the party who is according to the tenour of any bill of exchange, bank cheque, or promissory note, debtor to the holder in the amount thereof, may be required, as a condition of obtaining a sist of diligence, or suspension of a charge, or threatened charge, to make such consignation, or to find such caution as the court or judge before whom the cause is depending may require.

This section shall not apply to any case where the bill of exchange, bank cheque, or promissory note has undergone the sesennial prescription.

This section removes a technicality in the Scotch law of evidence which has often been adversely commented on by the judges.

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## SCHEDULES.

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### FIRST SCHEDULE.

Form of protest which may be used when the service of a Notary cannot be obtained.

Know all men that I, *A. B.* [householder], of \_\_\_\_\_ in the county of \_\_\_\_\_, in the United Kingdom, at the request of *C. D.*, there being no notary public available, did on the day of \_\_\_\_\_ 188\_\_ at \_\_\_\_\_ demand payment [*or* acceptance] of the bill of exchange hereunder written, from *E. F.*, to which demand he made answer [state answer, if any] wherefore I now, in the presence of *G. H.* and *J. K.*, do protest the said bill of exchange.

(Signed) *A. B.*

*G. H.* }  
*J. K.* } Witnesses.

N.B.—The bill itself should be annexed, or a copy of the bill, and all that is written thereon should be underwritten.

See sect. 94 as to this form.

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Title of Act and Extent of Repeal.
9 Will. 3. c. 17 ... ..	An Act for the better payment of Inland Bills of Exchange.
3 & 4 Anne, c. 8 ... ..	An Act for giving like remedy upon Promissory Notes as is now used upon Bill of Exchange, and for the better payment of Inland Bills of Exchange.
17 Geo. 3. c. 30 ... ..	An Act for further restraining the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum within that part of Great Britain called England.
39 & 40 Geo. 3. c. 42 .	An Act for the better observance of Good Friday in certain cases therein mentioned.
48 Geo. 3. c. 88... ..	An Act to restrain the negotiation of Promissory Notes and Inland Bills of Exchange under a limited sum in England.
1 & 2 Geo. 4. c. 78 ... ..	An Act to regulate Acceptances of Bills of Exchange.
7 & 8 Geo. 4. c. 15 ... ..	An Act for declaring the law in relation to Bills of Exchange and Promissory Notes becoming payable on Good Friday or Christmas Day.
9 Geo. 4. c. 24 ... ..	An Act to repeal certain Acts, and to consolidate and amend the laws relating to Bills of Exchange and Promissory Notes in Ireland. in part ; that is to say, Sections two, four, seven, eight, nine, ten, eleven.
2 & 3 Will. 4. c. 98 ... ..	An Act for regulating the protesting for non-payment of Bills of Exchange drawn payable at a place not being the place of the residence of the drawee or drawees of the same.

Session and Chapter.	Title of Act and Extent of Repeal.
6 & 7 Will. 4. c. 58 ...	An Act for declaring the law as to the day on which it is requisite to present for payment to Acceptor, or Acceptor's <i>suprà</i> protest for honour, or to the Referee or Referees, in case of need, Bills of Exchange which have been dishonoured.
8 & 9 Vict. c. 37 ... in part.	An Act to regulate the issue of bank notes in Ireland, and to regulate the repayment of certain sums advanced by the Governor and Company of the Bank of Ireland for the public service, in part; that is to say, Section twenty-four.
19 & 20 Vict. c. 97 ... in part.	The Mercantile Law Amendment Act, 1856, in part; that is to say, Sections six and seven.
23 & 24 Vict. c. 111 ... in part.	An Act for granting to Her Majesty certain duties of stamps, and to amend the laws relating to the stamp duties, in part; that is to say, Section nineteen.
34 & 35 Vict. c. 74 ...	An Act to abolish days of grace in the case of Bills of Exchange and Promissory Notes payable at sight or on presentation.
39 & 40 Vict. c. 81 ...	The Crossed Cheques Act, 1876.
41 & 42 Vict. c. 13 ...	The Bills of Exchange Act, 1878.

ENACTMENTS REPEALED AS TO SCOTLAND.

19 & 20 Vict. c. 60 ... in part.	The Mercantile Law (Scotland) Amendment Act, 1856, in part; that is to say, Sections ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen.
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# APPENDIX.

(N.B.—See sect. 97 (3) *ante* p. 64 saving the Stamp Acts.)

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*33 and 34 Victoria, chap. 97.*

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## An Act

For granting certain Stamp Duties in lieu of Duties of the same kind now payable under various Acts, and consolidating and amending provisions relating thereto.

[10th August, 1870.]

11. Where an instrument is chargeable with ad valorem duty in respect of any money in any foreign or colonial currency, such duty shall be calculated on the value of such money in British currency according to the current rate of exchange on the day of the date of the instrument.

Money in foreign or colonial currency to be valued.

23. Except where express provision is made to the contrary, all duties are to be denoted by impressed stamps only.

How duties to be denoted.

24. (1.) An instrument, the duty upon which is required, or permitted by law, to be denoted by an adhesive stamp, is not to be deemed duly stamped with an adhesive stamp unless the person required by law to cancel such adhesive stamp cancels the same

General direction as to the cancellation of adhesive stamps.



by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled, and rendered incapable of being used for any other instrument, or unless it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.

Penalty for  
neglect or re-  
fusal, *rod.*

(2.) Every person who, being required by law to cancel an adhesive stamp, wilfully neglects or refuses duly and effectually to do so in manner aforesaid, shall forfeit the sum of ten pounds.

*As to Bank Notes, Bills of Exchange, and Promissory Notes.*

Interpretation of  
terms.

45. The term "banker" means and includes any corporation, society, partnership, and persons and every individual person carrying on the business of banking in the United Kingdom.

The term "bank note" means and includes—

- (1.) Any bill of exchange or promissory note issued by any banker, other than the Governor and Company of the Bank of England, for the payment of money not exceeding one hundred pounds to the bearer on demand.
- (2.) Any bill of exchange or promissory note so issued which entitles or is intended to entitle the bearer or holder thereof, without indorsement, or without any further or other indorsement than may be thereon at the time of the issuing thereof, to the payment of money not exceeding one hundred pounds on demand, whether the same be so expressed or not, and in whatever for, and by whomsoever such bill or note is drawn or made.

46. A bank note issued duly stamped, or issued Bank notes may be re-issued. unstamped by a banker duly licensed or otherwise authorised to issue unstamped bank notes, may be from time to time re-issued without being liable to any stamp duty by reason of such re-issuing.

47. (1.) If any banker, not being duly licensed or Penalty for issuing an unstamped bank note, 50*l*. otherwise authorised to issue unstamped bank notes, issues, or causes or permits to be issued, any bank note not being duly stamped, he shall forfeit the sum of fifty pounds.

(2.) If any person receives or takes any such bank for receiving, 20*l*. note in payment or as a security, knowing the same to have been issued unstamped contrary to law he shall forfeit the sum of twenty pounds.

48. (1.) The term "bill of exchange" for the Interpretation of term "bill of exchange." purposes of this Act includes also draft, order, cheque, and letter of credit, and any document or writing (except a bank note) entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money therein mentioned.

(2.) An order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, is to be deemed for the purposes of this Act a bill of exchange for the payment of money on demand.

(3.) An order for the payment of any sum of money weekly, monthly, or at any other stated periods, and also any order for the payment by any person at any time after the date thereof of any sum of money, and sent or delivered by the person making the same to the person by whom the payment is to be made, and not to the person to whom the payment is to be made, or to any person on his behalf, is to be deemed for the purposes of this Act a bill of exchange for the payment of money on demand.

Interpretation of term "promissory note."

49. The term "promissory note" means and includes any document or writing (except a bank note) containing a promise to pay any sum of money.

(2.) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, it is to be deemed for the purposes of this Act a promissory note for the said sum of money.

The fixed duty may be denoted by adhesive stamp.

50. The fixed duty of one penny on a bill of exchange for the payment of money on demand may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the bill is signed before he delivers it out of his hands, custody, or power.

Ad valorem duties to be denoted in certain cases by adhesive stamps.

51. (1.) The ad valorem duties upon bills of exchange and promissory notes drawn or made out of the United Kingdom are to be denoted by adhesive stamps.

(2.) Every person into whose hands any such bill

or note comes in the United Kingdom before it is stamped shall, before he presents for payment, or indorses, transfers, or in any manner negotiates, or pays such bill or note, affix thereto a proper adhesive stamp or proper adhesive stamps of sufficient amount, and cancel every stamp so affixed thereto.

(3.) Provided as follows :

Provisoes for the protection of bonâ fide holders;

(a.) If at the time when any such bill or note comes into the hands of any bonâ fide holder thereof there is affixed thereto an adhesive stamp effectually obliterated, and purporting and appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person.

(b.) If at the time when any such bill or note comes into the hands of any bonâ fide holder thereof there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill or note shall be deemed duly stamped, and as valid and available as if the stamp had been duly cancelled by the person by whom it was affixed.

(4.) But neither of the foregoing provisos is to relieve any person from any penalty incurred by him for not cancelling any adhesive stamp.

not to relieve any other person.

52. A bill of exchange or promissory note purporting to be drawn or made out of the United Kingdom is, for the purposes of this Act, to be

Bills and notes purporting to be drawn, &c. abroad to be deemed to have been so drawn, &c.

deemed to have been so drawn or made, although it may in fact have been drawn or made within the United Kingdom.

Terms upon which bills and notes may be stamped after execution.

53. (1.) Where a bill of exchange or promissory note has been written on material bearing an impressed stamp of sufficient amount but of improper denomination, it may be stamped with the proper stamp on payment of the duty, and a penalty of forty shillings if the bill or note be not then payable according to its tenour, and of ten pounds if the same be so payable.

(2.) Except as aforesaid, no bill of exchange or promissory note shall be stamped with an impressed stamp after the execution thereof.

Penalty for issuing, &c. any unstamped bill or note *10/*, and the bill or note to be unavailable.

54. (1.) Every person who issues, indorses, transfers, negotiates, presents for payment, or pays any bill of exchange or promissory note liable to duty and not being duly stamped shall forfeit the sum of ten pounds, and the person who takes or receives from any other person any such bill or note not being duly stamped either in payment or as security, or by purchase or otherwise, shall not be entitled to recover thereon, or to make the same available for any purpose whatever.

Proviso as to the fixed duty.

(2.) Provided that if any bill of exchange for the payment of money on demand, liable only to the duty of one penny, is presented for payment unstamped, the person to whom it is so presented may affix thereto a proper adhesive stamp, and cancel the same, as if he had been the drawer of the bill, and may, upon so doing, pay the sum in the said bill mentioned,

and charge the duty in account against the person by whom the bill was drawn, or deduct such duty from the said sum, and such bill is, so far as respects the duty, to be deemed good and valid.

(3.) But the foregoing proviso is not to relieve any person from any penalty he may have incurred in relation to such bill. not to relieve from penalty.

55 When a bill of exchange is drawn in a set according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from such duly stamped bill, be exempt from duty; and upon proof of the loss or destruction of a duly stamped bill forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from such lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of such lost or destroyed bill. One bill only out of a set need be stamped.

---

## SCHEDULE.

### BANK NOTE—

				£	s.	d.
For money not exceeding 1 <i>l.</i>	...	...	...	0	0	5
Exceeding 1 <i>l.</i> and not exceeding 2 <i>l.</i>	...	...	...	0	0	10
„ 2 <i>l.</i>	„	5 <i>l.</i>	...	0	1	3
„ 5 <i>l.</i>	„	10 <i>l.</i>	...	0	1	9
„ 10 <i>l.</i>	„	20 <i>l.</i>	...	0	2	0
„ 20 <i>l.</i>	„	30 <i>l.</i>	...	0	3	0
„ 30 <i>l.</i>	„	50 <i>l.</i>	...	0	5	0
„ 50 <i>l.</i>	„	100 <i>l.</i>	...	0	8	6

And *see* sections 45, 46, and 47.

### BILL OF EXCHANGE—

Payable on demand	...	...	...	...	0	0	1
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BILL OF EXCHANGE of any other kind whatsoever (*except a Bank Note*) and PROMISSORY NOTE of any kind whatsoever (*except a Bank Note*)—drawn, or expressed to be payable, or actually paid, or indorsed, or in any manner negotiated in the United Kingdom.

Where the amount or value of the money for which the bill or note is drawn or made does not exceed 5*l.* .. ...

Exceeds 5 <i>l.</i> and does not exceed 10 <i>l.</i>	...	0	0	1
--	-----	---	---	---

„ 10 <i>l.</i>	„ 25 <i>l.</i>	...	0	0	3
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„ 25 <i>l.</i>	„ 50 <i>l.</i>	...	0	0	6
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„ 50 <i>l.</i>	„ 75 <i>l.</i>	...	0	0	9
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„ 75 <i>l.</i>	„ 100 <i>l.</i>	...	0	1	0
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„ 100*l.*—

for every 100*l.*, and also for any fractional part of 100*l.*, of such amount or value

0	1	0
---	---	---

*Exemptions.*

- (1.) Bill or note issued by the Governor and Company of the Bank of England or Bank of Ireland.
- (2.) Draft or order drawn by any banker in the United Kingdom upon any other banker in the United Kingdom, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers.
- (3.) Letter written by a banker in the United Kingdom to any other banker in the United Kingdom, directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made, or to any person on his behalf.
- (4.) Letter of credit granted in the United Kingdom, authorising drafts to be drawn out of the United Kingdom payable in the United Kingdom.
- (5.) Drafts or order drawn by the Accountant-General of the Court of Chancery in England or Ireland.
- (6.) Warrant or order for the payment of any annuity granted by the Commissioners for the Reduction of the National Debt, or for the payment of any dividend or interest on any share in the Government or Parliamentary stocks or funds.
- (7.) Bill drawn (according to a form prescribed by Her Majesty's orders by any person duly authorised to draw the same) upon and payable out of any public account for any



pay or allowance of the army or other expenditure connected therewith.

- (8.) Coupon or warrant for interest attached to and issued with any security.

And *see* sections 48, 49, 50, 51, 52, 53, 54, and 55.

PROMISSORY NOTE. *See* BANK NOTE, BILL OF EXCHANGE, and section 49.

PROTEST of any bill of exchange or promissory note :

Where the duty on the bill or note does not	$\left\{ \begin{array}{l} \text{The same duty} \\ \text{as the bill or} \\ \text{note.} \end{array} \right.$
exceed 1s. ... ..	
In any other case ... ..	0 1 0

And *see* section 116.

RECEIPT given for, or upon the payment of,  
money amounting to 2*l.* or upwards ... .. 0 0 1

### *Exemptions.*

- (1.) Receipt given for money deposited in any bank, or with any banker, to be accounted for and expressed to be received of the person to whom the same is to be accounted for.
- (2.) Acknowledgment by any banker of the receipt of any bill of exchange or promissory note for the purpose of being presented for acceptance or payment.
- (3.) Receipt given for any principal money or interest due on an exchequer bill.
- (4.) Receipt written upon a *bill of exchange or promissory note duly stamped.*
- (5.) Receipt given upon any bill or note of the Governor and Company of the Bank of England or the Bank of Ireland.

## INDEX.

- ACCEPTANCE,  
Defined, 2, 10.  
Delivery or notification to complete, 13.  
Requisites in form, 10.  
Of bill in a set, 51.  
At what time, 11.  
After previous dishonour, 11.  
General or qualified, 11, 12.  
Duties of holder as to qualified, 27, 28.  
Accommodation bill, 17.  
Filling up blank signature as, 12.  
Filling in date, 8.  
Presentment for, 24, 25.  
Dishonour by non-acceptance, 27.  
Cancellation of, 45.
- ACCEPTANCE FOR HONOUR,  
Rules as to, 47.  
Liability of acceptor, 48, 49.
- ACCEPTOR,  
What he admits by accepting, 40.  
Damages against, 42.  
Becoming holder of bill, 23, 45.  
Payment by or on behalf of, 43, 44.  
Duties of holder towards, 39.
- ACCOMMODATION BILL, 17, 36, 44.
- ACT OF HONOUR, 49.
- ACTION,  
Defined, 2.  
On lost bill, 50.  
Holder brings in his own name, 24.
- ADDRESS TO DRAWEE, 5.
- AFTER SIGHT BILLS,  
Filling in date, 8.  
Maturity, 9.  
Presentment for acceptance, 24, 25.
- AGENT (See *Principal and Agent*).
- ALLONGE, 20.
- ALTERATION,  
Effect of material, 46.  
Of crossing of cheque, 57.
- ALTERNATIVE,  
Drawee, 5.  
Payee, 5.
- ANTEDATING, 8.
- AT SIGHT,  
Means on demand, 7.
- BANKER,  
Defined, 2.  
Lien on customers' bills, 17.  
Effect of customer's death or bankruptcy,  
55.  
Paying demand draft if indorsement forged,  
44.  
Paying crossed cheques, 57.  
Collecting crossed cheque, 58.  
Duty to honour cheques, 56.  
Revocation of authority, 55.
- BANK HOLIDAY, 9, 63.
- BANK NOTE, 63.
- BANK OF ENGLAND OR IRELAND.  
Saving of privileges, 65.
- BANKRUPT,  
Defined, 2.  
Presentment for acceptance to, 26.  
Notice of dishonour to, 34.  
Saving for laws as to, 64.  
Drawing of cheque, 55.
- BEARER,  
Defined, 2.  
Bill to, how negotiated, 19.  
What bills are payable to, 6.  
Fictitious payee, 5.  
Bill indorsed in blank, 6, 21.  
Liability of person transferring bill to, 43.

- BETTER SECURITY,**  
Protest for, 37, 47.
- BILL OF EXCHANGE,**  
Defined, 3, 73.  
Foreign or inland, 4, 74.  
Drawn in a set, 50, 51.  
Cheque is for most purposes, 53, 54.  
Correspondence with note, 61.  
Stamp Laws as to, 71—81. See *Stamps*.
- BLANK.**  
Blank signatures, 12.  
Omission of date, 8.  
Indorsement in blank, 6, 21.
- BONÂ-FIDE HOLDER, 18, 75.**
- CANCELLATION,**  
Of bill or acceptance, 45, 46.
- CAPACITY**  
Of parties to bill, 14.
- CASE OF NEED.**  
How named on bill, 10.  
Presentment to, 10, 48.
- CHEQUE,**  
Defined, 53.  
General note on, 54.  
Application to, of provisions as to bills, 54.  
Forged indorsement on, 44.  
When deemed overdue, 23.  
Presentment to charge drawer, 54.  
Revocation of banker's authority to pay, 55.  
Crossing, 56, 57. See *Crossed Cheque*, stamp, 73, 74.
- CHRISTMAS DAY, 9, 63.**
- COMPANY,**  
Under the Companies Acts, 65. And see *Corporation*.
- COMPUTATION**  
Of time of payment, 9.  
Of sum payable, 6.  
Exclusion of non-business days in computing time.
- CONDITIONAL**  
Bill or note, 3.  
Indorsement, 21.  
Acceptance, 11, 27, 28.
- CONFLICT OF LAWS, 51—53.**
- CONSIDERATION,**  
What constitutes, 16.  
Presumption of, 18.  
Illegal, &c., 18.  
Liability on, as apart from bill, 24.
- COPY OF FOREIGN BILL, 20.**
- CORPORATION,**  
Capacity to incur liability, 14.  
Capacity to transfer bill, 14.  
Effect of seal as signature, 62.  
Included in term person, 3.
- COUNTERMAND**  
Of payment of cheque, 55.
- CROSSED CHEQUES,**  
General and special crossings, 56.  
By whom and how cheque may be crossed, 56.  
Crossing a material part, 57.  
Obliterated or altered crossing, 57.  
Duties of paying banker, 57, 58.  
Protection to banker and drawer, 58.  
Effect of words 'not negotiable,' 58.  
Protection to collecting banker, 58.
- DAMAGES,**  
Measure of, against parties to bill, 42.
- DATE,**  
Not essential, 4.  
Authority to fill in, 8, 12.  
Alteration of, material, 46.  
Presentment of bill payable after, 25.
- DAYS OF GRACE, 9, 53.**
- DEATH**  
Of drawer of cheque, 55.  
Of party to whom bill should be presented, 26, 30.  
Of party to receive notice of dishonour, 34.
- DEBT is consideration for bill, 16.**
- DEFINITIONS, 2, 3.**
- DELIVERY,**  
Meaning of, 2.  
Rules as to, 13.  
Bill to bearer negotiated by, 19.  
Liability of transferor by, 43.

- DESTRUCTION OF BILL, 39.
- DISCHARGES,  
     Payment in due course, 43.  
     Cancellation, 45.  
     Renunciation or waiver, 45.  
     Coincidence of right and liability, 45.  
     Alteration, 46.
- DISHONOUR,  
     By non-acceptance, 27.  
     By non-payment, 31.  
     By acceptor for honour, 49.
- DIVIDEND WARRANT,  
     May be crossed, 64.  
     Saving of usages as to, 65.
- DOCUMENTARY BILLS, 28.
- DRAWEE,  
     Address to, in bill, 5.  
     Duties of holder towards, 39, 40.  
     Non-liability on bill, 40.  
     Funds in hands of, 40.  
     Payment by, 43.  
     No one else can accept, 10. See also  
         *Acceptor.*  
     Time for deliberation, 27.
- DRAWER,  
     General liability of, 41.  
     Optional stipulations by, 10.  
     Damages against, 42.  
     Effect of payment by, 44.  
     Death or bankruptcy of drawer of cheque,  
         55.  
     If same person as drawee, 5.  
     Liability of, on cheque, 54.
- DURESS, 18, 19.
- EXCHANGE, fixing rate of, 7, 53, 71.
- EXECUTOR,  
     Presentment to, 26, 30.  
     Notice of dishonour to, 34.
- FAST DAY (public), 9, 63.
- FICTITIOUS NAME OR PARTY,  
     Payee, 5.  
     Drawee, 5, 36.  
     Real person using fictitious name, 14.
- FORCE AND FEAR, 18, 19.
- FOREIGN BILL,  
     Defined, 4.  
     Protest, 28, 37.  
     For stamp purposes, 74.
- FOREIGN NOTE,  
     Defined, 59.  
     Protest unnecessary, 62.  
     For stamp purposes, 74.
- FOREIGN LAWS, effect given to, 51, 52.
- FOREIGN CURRENCY,  
     Computation of sum payable in, 53.  
     How reckoned for stamp, 71.
- FORGERY,  
     General effect of, 15.  
     Indorsement on cheque, 44.
- FRAUD, 18, 19.
- FUNDS IN DRAWEE'S HANDS, 40.
- GENERAL ACCEPTANCE, 11, 39.
- GENERAL (OR BLANK) INDORSEMENT, 6, 21.
- GOOD FAITH, 62.
- GOOD FRIDAY, 9, 63.
- GRACE, days of, 9.
- HOLDER,  
     Defined, 2.  
     For value, 16.  
     In due course, 17.  
     Of accommodation bill, 17.  
     Presumption of value and good faith, 18.  
     Rights of, 24.  
     Effect if acceptor becomes, 23, 45.  
     Duties of, 24-40, 53.
- HOLIDAY (Bank or Public), 9, 63.
- HONOUR (acceptance or payment for), 47-50.
- ILLEGALITY (affecting bill), 18, 19.
- INCHOATE OR INCOMPLETE INSTRUMENT, 12.
- INDORSEE,  
     Provisions as to payee apply to, 21.  
     Included in 'holder,' 2.  
     Misdescription of, 20.

**INDORSEMENT,**

- Defined, 2.
- Delivery to complete, 13.
- General requisites, 20, 52.
- In blank, 6, 21.
- Special or in full, 6, 21, 22.
- Conditional, 21.
- Restrictive, 22.
- Without recourse, &c., 10, 19.
- Sans frais, &c., 10.
- What it admits, 41.
- Transfer of bill to order without, 19.
- For part, invalid, 20.
- Of bill in a set, 51.
- Forged, 15, 44.

**INDORSER,**

- General liability of, 41, 52.
- Damages against, 42.
- Stranger backing bill liable as, 41, 42.

**INFANT (party to bill), 14.****INFORMAL INSTRUMENT, 12, 17.****INLAND BILL OR NOTE, 4, 59.****INSTALMENTS, instrument payable by, 6, 7.****INTEREST,**

- Given by bill, 6, 7.
- As damages, 42.

**IRELAND,**

- Application of Act to, 1, 4.

**ISSUE, 2.****JOINT AND SEVERAL NOTE, 60.****LAW MERCHANT,**

- How far saved, 64.
- Liabilities of parties, 40—43, 48.

**LIEN (on bill), 17.****LIMITATIONS (statute),**

- On note on demand, 60.

**LOST INSTRUMENT,**

- Protest of, 39.
- Right to duplicate, 50.
- Action on, 50.

**MAKER OF NOTE,**

- Liability of, 61.
- Presentment to charge, 60.
- Provisions as to acceptor applied to, 61.

**MATURITY,**

- How computed, 9, 47, 53.
- Negotiation after, 22.
- Payment at or after, 44.

**MISDESCRIPTION OR MISSPELLING, 5, 20.****MONTH, 10.****NEED, case of, 10.****NEGOTIATION,**

- Meaning of, 19.
- How effected, 19, 20.
- Of overdue or dishonoured bill, 22.
- Back to party already liable, 23, 45.

**NEGOTIABILITY,**

- Of bill in its origin, 6.
- When it ceases, 22.

**NON-BUSINESS DAYS, 63.****"NOT NEGOTIABLE,"**

- On crossed cheque, 56, 58.

**NOTARY PUBLIC,**

- Protest where none accessible, 63, 67.

**NOTICE OF DISHONOUR,**

- To charge drawer and indorsers, 32.
- Not necessary to acceptor, 39.
- Rules as to giving, 32—35.
- Excuses for not giving, or delay, 35.

**NOTICE OF QUALIFIED ACCEPTANCE, 28.****NOTING,**

- Dishonoured bill, 36, 37.
- When equivalent to protest, 63.

**OMISSION OF DATE, 8.****ORDER OR BEARER,**

- Distinctions, 5, 6, 19, 44.

**OVERDUE BILL,**

- Negotiation of, 22.

**PAROLE EVIDENCE,**

- Amendment of Scotch Law Acts, 66.

**PARTIAL ACCEPTANCE, 11, 28.**

PARTIAL INDORSEMENT, 20.

PARTICULAR FUND,  
Bill payable out of, 3.

PARTNERSHIP,  
Included in "person," 3.  
Signature of, 14.

PAYEE,  
Rules as to specifying, 5.  
Provisions as to, apply to indorsee, 20.  
Indorsement by if misdescribed, 20.  
Fictitious, 5.

PAYMENT,  
In due course, 43, 44.  
When indorsement on cheque forged, 44.  
Of forgery in general, 15.  
Of crossed cheque, 57, 58.

PAYMENT FOR HONOUR, 49.

PERSON, Defined, 3.

PLACE  
Of drawing or making, 4.  
Of payment, 4, 53,  
Of presentment for payment, 29.

POST-DATING, 8.

POST-OFFICE,  
Presentment through, 26, 30.  
Notice of dishonour sent through, 35.

PRESENTMENT FOR ACCEPTANCE,  
When necessary, 24.  
Time if bill payable after date or sight, 25.  
Rules as to and excuses for non-present-  
ment, 25, 26.  
Drawee's time for deliberation, 27.

PRESENTMENT FOR PAYMENT.  
To charge drawer or indorser, 28.  
Rules as to, 28.  
Excuses for non-presentment or delay, 30.  
To charge acceptor or maker, 39, 60.

PRESENTMENT TO ACCEPTOR FOR HONOUR, 48.

PRESENTMENT TO CASE OF NEED, 10, 48.

PRINCIPAL AND AGENT,  
Undisclosed principal not liable, 14.  
Hand that signs immaterial, 62.  
Procurator signatures, 15.  
Liability of agent signing as such, 15.  
Unauthorised signatures, 15, 16.

PROCURATION SIGNATURE, 15.

PROMISSORY NOTE,  
Defined, 59.  
Requisites, 59.  
Application to of provisions as to bills, 61.  
Inland or foreign, 59.  
Joint and several, 60.  
Payable on demand, 60, 65.  
Presentment for payment, 60.  
Liability of maker,  
Stamps on, 74, 78.

PROTEST,  
To charge drawer or indorser, 37.  
Rules as to, 37, 38, 39.  
When noting equivalent to, 63.  
When notary not accessible, 63.  
For non-delivery, or in case of loss, 39.  
In case of partial acceptance, 28.  
In proceedings for honour, 47—50.  
As regards acceptor, 37.

QUALIFIED ACCEPTANCE, 11, 27.

RATIFICATION OF FORGERY, 15.

RECEIPT, Unstamped on bill, 80.

RE-EXCHANGE AND RE-DRAFT, 42, 43.

RE-ISSUE,  
By drawer or indorser, 23, 44.  
By acceptor, 23, 45.

REPEALS, 68.

RESTRICTIVE INDORSEMENT, 22.

SANS FRAIS, 10.

SANS RECOURS, 10, 19.

SAVINGS, 64.

SCOTLAND,  
Act applies to, 1.  
Christmas Day and Good Friday, 9.  
Bill as assignment of funds, 40.  
Saving for summary diligence, 65.  
Amendment of law of evidence, 66.

SEAL (of Corporation), 62.

SET,

- Rules as to bills drawn in, 50.
- Stamp on, 77.

SIGNATURE,

- Necessary to liability, 14.
- Hand that signs immaterial, 62.
- Forgery of, 15, 44.
- Of agent, or by procuration, 15.
- Of corporation or company, 62, 65.
- In blank, 12.

SPECIAL INDORSEMENT, 6, 21.

STALE CHEQUE, 28.

STAMP ACTS,

- Saving for, 64.
- Scales of duty, 78.
- Definitions under, 72, 73, 74.
- Impressed or adhesive stamps, 71.
- Cancellation of stamp, 71.
- Foreign currencies, 71.
- Cheque, or bill on demand, 74, 76, 78.
- Ad valorem duties in other cases, 74.
- Stamping after execution, 76.
- Bills in a set, 77.
- Protests, 80.
- Exemptions from duty, 79, 80, 81.

STRANGER TO BILL,

- Liability if he backs or signs it, 41, 42.

SUM PAYABLE,

- Rules as to specifying, 6, 7.
- How if left blank, 12.
- Alteration of, 46.

SUMMARY DILIGENCE, 65.

SUNDAY, 8, 9, 63.

THANKSGIVING DAY, 9, 63.

TIME OF PAYMENT,

- How computed, 9, 47.
- Conflict of laws, 53.

TRANSFER,

- By negotiation, 19—24.
- Of bill to order without indorsement, 19.

TRANSFEROR BY DELIVERY, 43.

VALUE,

- Defined, 3, 16.
- Holder for, 16, 17.
- Need not be stated in bill, 4.
- Presumption of, 18.

WAIVER,

- Of bill or acceptance, 45.
- Of presentment for payment, 10, 31.
- Of notice of dishonour, 10, 36.
- Of protest, 10, 39.

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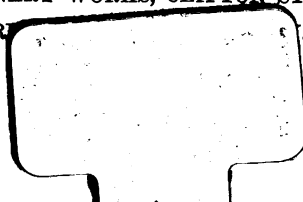
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EDITED BY

R. H. INGLIS PALGRAVE, Esq., F.S.S.,

*Author of "Notes on Banking," &c., &c.*

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THIRTY-EIGHTH YEAR OF PUBLICATION.

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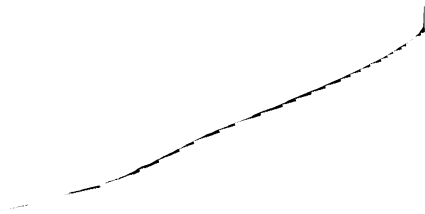
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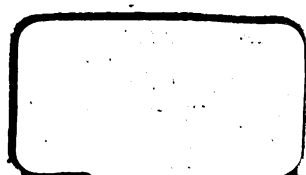
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